

Committee: House Transportation

Tuesday, February 18, 2020 10:00 AM

Roll Call

Present: Rep. Chase, Rep. Duvall, Rep. Finck, Rep. Goodwin, Rep. David Johnson, Rep. Livermont, Rep. Steele, Rep. Weis, Rep. Zikmund, Rep. Bordeaux, Rep. Lesmeister, Rep. Anderson, and Rep. Mills

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Representative Mills**

**MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 13<sup>TH</sup>**

Moved by: Finck  
Second by: Weis  
Action: Prevailed by voice vote

**HB 1183 : increase driver licensing fees and dedicate that increase to transit providers.**

Presented by: Representative Roger Chase (Handout(s) #1)  
Proponents: Myron Rau, South Dakota Transit Providers  
Ron Baumgart, self, Pierre  
Judy Rada, self, Pierre  
Roberta Vaughn, self, Pierre  
Jake Gigliotti, Prairie Hills Veterans, Sturgis  
Yvonne Taylor, South Dakota Municipal League  
Justin G. Smith, Sioux Falls Chamber of Commerce  
Opponents: David Wiest, South Dakota Department of Revenue

**MOTION: DEFER HB 1183**

Moved by: Goodwin  
Second by: Livermont  
Action: Failed by Majority Members Elect (3-10-0-0)

Voting Yes: Goodwin, Livermont, and Zikmund

Voting No: Chase, Duvall, Finck, David Johnson, Steele, Weis, Bordeaux, Lesmeister, Anderson, and Mills

**MOTION: DO PASS HB 1183**

Moved by: Anderson  
Second by: Finck  
Action: Failed by Majority Members Elect (6-7-0-0)

Voting Yes: Chase, Finck, Steele, Bordeaux, Lesmeister, and Anderson

Voting No: Duvall, Goodwin, David Johnson, Livermont, Weis, Zikmund, and Mills

**MOTION: WITHOUT RECOMMENDATION HB 1183**

Moved by: Finck  
Action: Died for lack of a second

**MOTION: DEFER HB 1183 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Duvall  
Second by: Livermont  
Action: Prevailed by Majority Members Elect (7-5-1-0)

Voting Yes: Duvall, Goodwin, Livermont, Weis, Zikmund, Anderson, and Mills

Voting No: Chase, Finck, David Johnson, Bordeaux, and Lesmeister

Excused: Steele

**HB 1200 : establish dates for the mowing of ditches on the state trunk highway system.**

Presented by: Representative Caleb Finck  
Opponents: Bill Nevin, Department of Transportation

**MOTION: AMEND HB 1200**

1200B

On the Introduced bill, delete everything after the enacting clause and insert:

"

**Section 1.** That a NEW SECTION be added:

31-5-21.1. Rights-of-way--Mowing--Permit or contract.

A person may not mow or remove any grass from the right-of-way of any highway on the state trunk highway system unless the person has first been issued a permit to mow or a contract to mow by the region engineer of the department or by an authorized representative.

**Section 2.** That a NEW SECTION be added:

31-5-21.2. Permit to mow—Application.

An application for a permit to mow the right-of-way of any portion of an interstate highway, except medians, may be obtained from the department. An application must include:

- (1) The applicant's name, address, and phone number;
- (2) The side or sides of the highway for which the permit to mow is requested, identified by the beginning and ending mileposts to the tenth of a mile;
- (3) A legal description of the mowing location; and
- (4) A statement indicating whether the applicant is the owner or a lessee of the land abutting the requested mowing area.

The applicant shall sign and date the permit to mow application. The department may not charge a fee for the permit.

In issuing a permit to mow under this section, the department shall give priority to an abutting landowner over any other person wishing to mow the highway right-of-way.

A general permit is granted to all residents for mowing all other state trunk highway rights-of-way, except medians.

**Section 3.** That a NEW SECTION be added:

31-5-21.3. Contract to mow--Bids.

Mowing of a state highway median may only be done under a contract with the department. The department shall publish notice, in at least three newspapers, regarding the period during which it will accept bids for mowing, processing, and removing hay from a state highway median.

A person submitting a bid shall identify the area to be covered by the bid, by entering the beginning and ending mileposts to the tenth of a mile.

Bids must be submitted on a per-mile basis. The minimum acceptable bid is twenty dollars per mile.

Any area for which the bidder is an abutting landowner must be identified separately.

**Section 4.** That a NEW SECTION be added:

31-5-21.4. Abutting property--Priority--Bids.

The department shall give the owner of abutting property priority over all other bidders in the issuance of a contract to mow that property. If more than one owner of abutting property submits a bid for the same area, the department shall give priority to the higher bidder.

The department may reject any bid or all bids.

If a bid is selected, the bidder shall enter into a contract with the department and tender, either in cash or by check, the full amount bid for the area. The department shall determine the amount due by multiplying the length of the area by the amount bid per mile.

**Section 5.** That a NEW SECTION be added:

31-5-21.5. Refusal of issuance.

The department may elect not to issue permits to mow or contracts to mow on any or all portions of the right-of-way.

**Section 6.** That a NEW SECTION be added:

31-5-21.6. Nonabutting property owner--Waiver.

If a person who does not own the abutting property applies for a permit to mow the right-of-way of any portion of an interstate highway, the person shall attach to the application a waiver signed by the abutting property owner.

**Section 7.** That a NEW SECTION be added:

31-5-21.7. Mowing--Prohibited dates--Exceptions.

Except as otherwise provided in this section, no person, including a property owner, the holder of a contract to mow, the holder of a permit to mow, or departmental personnel may:

(1) Mow the right-of-way or the median, in the counties of Dewey, Gregory, Jones, Lyman, Stanley, or Tripp before June fifteenth of each year; or

(2) Mow the right-of-way or the median in any county east of the Missouri River before July tenth of each year.

A permit to mow the right-of-way is not effective on or after September first of each year.

A contract to mow the median is not effective until twenty-four hours after the department has been given notice of the intent to mow. All mowing under a contract must be conducted during the hours between sunrise and sunset.

Nothing in this section precludes departmental personnel or any other person from mowing, at any time during the year, the first eight feet of areas within the rights-of-way, if necessary for public safety.

Nothing in this section precludes mowing along the portion of a state trunk highway system that lies within the boundaries of a municipality.

**Section 8.** That a NEW SECTION be added:

31-5-21.8. New construction--Mowing prohibited.

The department may not authorize any mowing along newly constructed sections of highway for a period of three years, unless the department determines that the grass has become permanently established.

**Section 9.** That a NEW SECTION be added:

31-5-21.9. Area to be mowed--Limitation.

The area of the highway right-of-way that may be mowed by permit is limited to the area from the right-of-way line up to the edge of the roadway shoulder and the areas inside interchanges, if access to the interchange areas is by a means other than the main highway.

The median of a divided highway may be mowed only by contract.

**Section 10.** That a NEW SECTION be added:

31-5-21.10. Mowing--Condition upon completion.

All work undertaken in accordance with a permit to mow or a contract to mow must be conducted in an appropriate manner, as determined by the department. Upon completion, the area must be left in a neat condition. A contractor shall mow, as closely as possible, around all signs, delineators, guide rails, improvements, and appurtenances.

**Section 11.** That a NEW SECTION be added:

31-5-21.11. Hay--Removal--Dates.

Hay harvested under a permit to mow must be removed from the right-of-way within thirty days after being processed.

Hay harvested under a contract to mow must be removed within ten days after being processed unless an extension of time is granted in writing by the region engineer.

Hay that is baled and left in the right-of-way during the time specified by this section may not be closer than thirty feet from the painted shoulder stripe.

Hay not removed within the time specified by this section or October first, whichever is earlier, may be removed and disposed of by the department.

**Section 12.** That a NEW SECTION be added:

31-5-21.12. Access to mowing area--Limitations.

Access to the work area of a highway right-of-way may be obtained as provided for in this section.

If a person has a permit to mow, the person may access the work area of an interstate or a controlled-access highway only by using a gate in the right-of-way fence. If a gate does not exist, the person may install one. Once installed, the gate becomes the property of this state.

If a person has a contract to mow, the person may move only such mowing, processing, and loading equipment, as is necessary, to the median from the main roadway. Each piece of equipment must have a sign attached indicating that it is a slow moving vehicle and it must stay within the median during the operation.

The loading of baled or processed hay onto hauling units must occur within the median.

**Section 13.** That a NEW SECTION be added:

31-5-21.13. Haying equipment--Parking--Limitations.

If haying equipment is not in use, the equipment must be parked near the right-of-way line. Any haying equipment left overnight by a person who has a contract to mow must be parked out of the median and near the right-of-way fence line.

**Section 14.** That a NEW SECTION be added:

31-5-21.14. Liability insurance.

Any person who has a permit to mow or a contract to mow is liable for damage caused to fences, signs, landscape plantings, or other highway features, as a result of the person's mowing or haying operations.

Any person who has a permit to mow or a contract to mow shall carry liability insurance in the amount of fifty thousand dollars to cover any property damage and an additional one hundred thousand dollars to cover any personal liability, as a result of the person's mowing or haying operations.

Any person who has a permit to mow or a contract to mow shall hold the department, its officers, and its employees harmless from any claims or actions brought as a result of the person's negligence in conducting mowing or haying operations, or as a result of negligence on the part of the person's agents or employees.

**Section 15.** That § 31-5-22 be AMENDED:  
31-5-22. Penalty.

Any person who violates ~~any of the rules authorized pursuant to § 31-5-21 §§ 31-5-21.1 through 31-5-21.14~~ is guilty of a Class 2 misdemeanor.

**Section 16.** That § 31-5-21 be REPEALED.

31-5-21. Mowing of ditches on state trunk highway--Rules--Priority to abutting landowner.  
"

Moved by: Anderson  
Second by: Weis  
Action: Prevailed by voice vote

**MOTION: DEFER HB 1200 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Anderson  
Second by: Duvall  
Action: Prevailed by Majority Members Elect (7-6-0-0)

Voting Yes: Duvall, Goodwin, David Johnson, Livermont, Zikmund, Anderson, and Mills

Voting No: Chase, Finck, Steele, Weis, Bordeaux, and Lesmeister

**HB 1208 : revise provisions regarding the titling of motor vehicles.**

Presented by: Representative David Anderson  
Proponents: Matt Onnen, South Dakota Independent Auto Dealers Association

**MOTION: DO PASS HB 1208**

Moved by: Goodwin  
Second by: Steele  
Action: Prevailed by Majority Members Elect (11-0-2-0)

Voting Yes: Chase, Finck, Goodwin, David Johnson, Livermont, Steele, Weis, Zikmund, Lesmeister, Anderson, and Mills

Excused: Duvall and Bordeaux

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED HB 1208 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**MOTION: ADJOURN**

Moved by: Lesmeister  
Second by: Weis

Action:       Prevailed by voice vote

Sharon Johnson, Committee Secretary

---

/s/ JOHN MILLS  
John Mills, Chair